

OCT. 18. 2005 2:06PM

HALL ESTILL ET AL PC

NO. 6430 P. 2/24

FILED**OCT 18 2005**

**APPLICATION FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY TO PREMISES**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

CV-05-563

STATE OF OKLAHOMA)
)
COUNTY OF DELAWARE)

SS

COMES NOW Teena G. Gunter, Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry, by and through, David Leavitt, Office of General Counsel, and applies for a statutory administrative warrant to enter certain privately-owned premises in Delaware County, Oklahoma in order to perform soil and litter sampling and testing at the barns and land application sites of a poultry feeding operation known as the Julie Anderson a/k/a Julie Anderson Chancellor poultry facility. The premises are located in Section 30, Township 20 North, Range 25 East of the Indian Meridian, Delaware County. These premises are believed to be in the possession, custody, and control of Julie Anderson, 18890 E. 575 Road, Colcord, Oklahoma 74338.

Authority for entry to the premises and this statutory administrative warrant is pursuant to 2 O.S. 2001 § 2-14, § 2-4(A)(7) and (16), § 10-9.10, and § 10-9.20. As detailed below, access to the premises is a part of the normal regulatory duties of the Department as a part of implementing the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

The Oklahoma Agricultural Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to the Department to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

The sampling will begin as soon as practicable after issuance of the requested warrant and order for entry and will be completed with reasonable promptness. The sampling is expected to take approximately twenty-four (24) hours, more or less, and may take up to three (3) days. Photographs of the sampling event may be taken. The sampling will be conducted by one or more duly authorized agents of the Oklahoma Department of Agriculture, Food, and Forestry.

EXHIBIT

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OCT. 18. 2005 2:06PM

HALL ESTILL ET AL PC

NO. 6430 P. 3/24

Appropriate biosecurity protocols will be followed during the sampling event. If necessary, one or more deputies from the Delaware County Sheriff's Department or Agricultural Investigators from the Department may accompany them.

Return of service of the warrant will be made as soon as practicable after completion of the inspection.

An affidavit in support of this application is attached hereto as Attachment A and is incorporated herein.

Wherefore, the undersigned respectfully requests that a statutory administrative warrant be issued authorizing entry, sampling, and photographing of the property and premises described above for the purposes specified herein.

Respectfully submitted,



David Leavitt, OBA #15800
Office of General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry
2800 North Lincoln Blvd.
Oklahoma City, OK 73105-4298
(405) 522-4668

OCT. 18. 2005 2:06PM

HALL ESTILL ET AL PC

NO. 6430 P. 4/24

FILED**OCT 18 2005**

**AFFIDAVIT IN SUPPORT OF APPLICATION
FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY FOR INSPECTION**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)

SS

CV-05-563

COUNTY OF DELAWARE)

I, Teena G. Gunter, being duly sworn upon my oath, do depose and say:

1. I am the Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry (Department) and a duly authorized representative of the State Board of Agriculture for the purpose of carrying out the Oklahoma Agricultural Code (Code). The Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

2. Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

3. The statements herein are made upon personal knowledge.

4. Julie Anderson's, a/k/a Julie Anderson Chancellor, poultry facility is a registered poultry feeding operation pursuant to the Oklahoma Registered Poultry Feeding Operations Act, 2 O.S. § 10-9.1 et seq.

5. On April 23 and 24, 2005, Julie Anderson was notified by telephone of the Department's intent to take soil and litter samples at the poultry feeding operation.

6. On May 3, 2005, Dan Parrish, Director of the Agricultural Environmental Management Services Division, and Secretary of Agriculture Terry L. Peach met with Julie Anderson and other poultry producers in Kansas, Oklahoma to discuss the proposed soil and litter sampling events and to answer questions. Michael Graves also attended the meeting as the attorney for Julie Anderson and the other poultry producers.

OCT. 18. 2005 2:07PM

HALL ESTILL ET AL PC

NO. 6430 P. 5/24

7. On May 18, 2005, a written response to the growers' questions raised at the May 3, 2005 meeting was provided to Julie Anderson, the other poultry producers, and Michael Graves as their attorney. In addition, the response notified them that the Department would begin contacting them the following week to schedule the soil and litter sampling.

8. On May 23, 2005, Michael Graves notified the Department that unless additional concessions were made, the poultry producers would not allow the soil and litter sampling to occur.

9. On May 27, 2005, Secretary Terry L. Peach notified Michael Graves that no additional concessions would be made regarding the soil and litter sampling and to please advise if his clients intended to refuse access to the Department.

10. On June 3, 2005, D. Kenyon Williams, Jr., on behalf of Michael Graves notified the Department that the poultry growers do refuse access to the Department. I confirmed the refusal in a June 22, 2005 in a telephone conversation with Michael Graves.

11. On June 29, 2005, Michael Graves sent a letter to Terry L. Peach renewing the poultry growers' objection to the sampling project as earlier outlined and requesting that the Department not seek warrants to enforce its right of access.

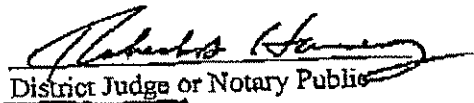
12. The agents of the State Board of Agriculture may require the assistance of and be accompanied by one or more deputies of the Delaware County Sheriff's office or investigators of the Oklahoma Department of Agriculture, Food, and Forestry.

13. A return will be made to the Court at the completion of the soil and litter sampling and testing.



Teena G. Gunter
Deputy General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry

Before me, an authorized agent of the Board, in and for said County and State, on this 18 day of October, 2005, personally appeared Teena G. Gunter, and stated that the facts set forth in this Affidavit are true and correct to the best of her knowledge and belief.


District Judge or Notary Public

OCT. 18. 2005 2:07PM

HALL ESTILL ET AL PC

NO. 6430 P. 7/24

FILED

OCT 18 2005

**APPLICATION FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY TO PREMISES**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)

SS

COUNTY OF DELAWARE)

CY-05-564

COMES NOW Teena G. Gunter, Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry, by and through, David Leavitt, Office of General Counsel, and applies for a statutory administrative warrant to enter certain privately-owned premises in Delaware County, Oklahoma in order to perform soil and litter sampling and testing at the barns and land application sites of a poultry feeding operation known as the Joel J. and Rhonda Reed poultry facility. The premises are located in Sections 20 and 29, Township 20 North, Range 25 East of the Indian Meridian, Delaware County. These premises are believed to be in the possession, custody, and control of Joel J. and Rhonda Reed, 19443 E. 570 Road, Colcord, Oklahoma 74338.

Authority for entry to the premises and this statutory administrative warrant is pursuant to 2 O.S. 2001 § 2-14, § 2-4(A)(7) and (16), § 10-9.10, and § 10-9.20. As detailed below, access to the premises is a part of the normal regulatory duties of the Department as a part of implementing the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

The Oklahoma Agricultural Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to the Department to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

The sampling will begin as soon as practicable after issuance of the requested warrant and order for entry and will be completed with reasonable promptness. The sampling is expected to take approximately twenty-four (24) hours, more or less, and may take up to three (3) days. Photographs of the sampling event may be taken. The sampling will be conducted by one or more duly authorized agents of the Oklahoma Department of Agriculture, Food, and Forestry.

OCT. 18. 2005 2:08PM

HALL ESTILL ET AL PC

NO. 6430 P. 8/24

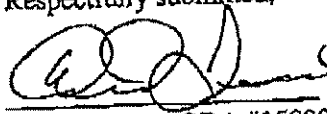
Appropriate biosecurity protocols will be followed during the sampling event. If necessary, one or more deputies from the Delaware County Sheriff's Department or Agricultural Investigators from the Department may accompany them.

Return of service of the warrant will be made as soon as practicable after completion of the inspection.

An affidavit in support of this application is attached hereto as Attachment A and is incorporated herein.

Wherefore, the undersigned respectfully requests that a statutory administrative warrant be issued authorizing entry, sampling, and photographing of the property and premises described above for the purposes specified herein.

Respectfully submitted,



David Leavitt, OBA #15800
Office of General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry
2800 North Lincoln Blvd.
Oklahoma City, OK 73105-4298
(405) 522-4668

OCT. 18. 2005 2:08PM

HALL ESTILL ET AL PC

NO. 6430 P. 9/24

FILED**OCT 18 2005**

**AFFIDAVIT IN SUPPORT OF APPLICATION
FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY FOR INSPECTION**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)
)
COUNTY OF DELAWARE)

SS

CV-05-564

I, Teena G. Gunter, being duly sworn upon my oath, do depose and say:

1. I am the Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry (Department) and a duly authorized representative of the State Board of Agriculture for the purpose of carrying out the Oklahoma Agricultural Code (Code). The Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

2. Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

3. The statements herein are made upon personal knowledge.

4. The poultry facility registered by Joel J. and Rhonda Reed, is a registered poultry feeding operation pursuant to the Oklahoma Registered Poultry Feeding Operations Act, 2 O.S. § 10-9.1 et seq.

5. On October 18, 2005, Joel J. and Rhonda Reed were notified by Department personnel of the Department's intent to take soil and litter samples at the poultry feeding operation.

6. On October 18, 2005, Joel J. and Rhonda Reed refused access to the facility for the purpose of taking soil and litter samples.

7. The agents of the State Board of Agriculture may require the assistance of and be accompanied by one or more deputies of the Delaware County Sheriff's office or investigators of the Oklahoma Department of Agriculture, Food, and Forestry.

OCT. 18. 2005 2:08PM

HALL ESTILL ET AL PC

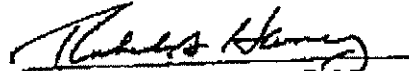
NO. 6430 P. 10/24

8. A return will be made to the Court at the completion of the soil and litter sampling and testing.



Teena G. Gunter
Deputy General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry

Before me, an authorized agent of the Board, in and for said County and State, on this 18 day of October, 2005, personally appeared Teena G. Gunter, and stated that the facts set forth in this Affidavit are true and correct to the best of her knowledge and belief.


District Judge or Notary Public

OCT. 18. 2005 2:09PM

HALL ESTILL ET AL PC

NO. 6430 P. 13/24

FILED

OCT 18 2005

**APPLICATION FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY TO PREMISES**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)
)
COUNTY OF DELAWARE)

SS

CV-05-545

COMES NOW Teena G. Gunter, Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry, by and through, David Leavitt, Office of General Counsel, and applies for a statutory administrative warrant to enter certain privately-owned premises in Delaware County, Oklahoma in order to perform soil and litter sampling and testing at the barns and land application sites of a poultry feeding operation known as the Jim L. and Michelle R. Pigeon poultry facility. The premises are located in Section 5, Township 20 North, Range 24 East of the Indian Meridian, and Section 7, Township 20 North, Range 26 East of the Indian Meridian, Delaware County. These premises are believed to be in the possession, custody, and control of Jim L. and Michelle R. Pigeon, 24599 Van Fleet Road, Siloam Spring, Arkansas 72761.

Authority for entry to the premises and this statutory administrative warrant is pursuant to 2 O.S. 2001 § 2-14, § 2-4(A)(7) and (16), § 10-9.10, and § 10-9.20. As detailed below, access to the premises is a part of the normal regulatory duties of the Department as a part of implementing the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

The Oklahoma Agricultural Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to the Department to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

The sampling will begin as soon as practicable after issuance of the requested warrant and order for entry and will be completed with reasonable promptness. The sampling is expected to take approximately twenty-four (24) hours, more or less, and may take up to three (3) days. Photographs of the sampling event may be taken. The sampling will be conducted by one or

OCT. 18. 2005 2:10PM

HALL ESTILL ET AL PC

NO. 6430 P. 14/24

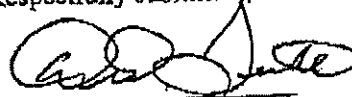
more duly authorized agents of the Oklahoma Department of Agriculture, Food, and Forestry. Appropriate biosecurity protocols will be followed during the sampling event. If necessary, one or more deputies from the Delaware County Sheriff's Department or Agricultural Investigators from the Department may accompany them.

Return of service of the warrant will be made as soon as practicable after completion of the inspection.

An affidavit in support of this application is attached hereto as Attachment A and is incorporated herein.

Wherefore, the undersigned respectfully requests that a statutory administrative warrant be issued authorizing entry, sampling, and photographing of the property and premises described above for the purposes specified herein.

Respectfully submitted,



David Leavitt, OBA #15800
Office of General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry
2800 North Lincoln Blvd.
Oklahoma City, OK 73105-4298
(405) 522-4668

OCT. 18. 2005 2:10PM

HALL ESTILL ET AL PC

NO. 6430 P. 15/24

FILED

OCT 18 2005

**AFFIDAVIT IN SUPPORT OF APPLICATION
FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY FOR INSPECTION**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)
)
COUNTY OF DELAWARE)

SS

CV-05-565

I, Teena G. Gunter, being duly sworn upon my oath, do depose and say:

1. I am the Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry (Department) and a duly authorized representative of the State Board of Agriculture for the purpose of carrying out the Oklahoma Agricultural Code (Code). The Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

2. Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

3. The statements herein are made upon personal knowledge.

4. The poultry facility registered by Jim L. and Michelle R. Pigeon, is a registered poultry feeding operation pursuant to the Oklahoma Registered Poultry Feeding Operations Act, 2 O.S. § 10-9.1 et seq.

5. On April 23 and 24, 2005, Jim Pigeon was notified by telephone of the Department's intent to take soil and litter samples at the poultry feeding operation.

6. On April 26, 2005, the Department met with Jim Pigeon at the poultry feeding operation and Mr. Pigeon did not allow the soil or litter sampling to take place.

7. On May 3, 2005, Dan Parrish, Director of the Agricultural Environmental Management Services Division, and Secretary of Agriculture Terry L. Peach met with Jim Pigeon and other poultry producers in Kansas, Oklahoma to discuss the proposed soil and litter

OCT. 18. 2005 2:10PM

HALL ESTILL ET AL PC

NO. 6430 P. 16/24

sampling events and to answer questions. Michael Graves also attended the meeting as the attorney for Jim Pigeon and the other poultry producers.

8. On May 18, 2005, a written response to the growers' questions raised at the May 3, 2005 meeting was provided to Jim Pigeon, the other poultry producers, and Michael Graves as their attorney. In addition, the response notified them that the Department would begin contacting them the following week to schedule the soil and litter sampling.

9. On May 23, 2005, Michael Graves notified the Department that unless additional concessions were made, the poultry producers would not allow the soil and litter sampling to occur.

10. On May 27, 2005, Secretary Terry L. Peach notified Michael Graves that no additional concessions would be made regarding the soil and litter sampling and to please advise if his clients intended to refuse access to the Department.

11. On June 3, 2005, D. Kenyon Williams, Jr., on behalf of Michael Graves notified the Department that the poultry growers do refuse access to the Department. I confirmed the refusal in a June 22, 2005 in a telephone conversation with Michael Graves.

12. On June 29, 2005, Michael Graves sent a letter to Terry L. Peach renewing the poultry growers' objection to the sampling project as earlier outlined and requesting that the Department not seek warrants to enforce its right of access.

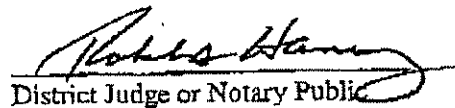
13. The agents of the State Board of Agriculture may require the assistance of and be accompanied by one or more deputies of the Delaware County Sheriff's office or investigators of the Oklahoma Department of Agriculture, Food, and Forestry.

14. A return will be made to the Court at the completion of the soil and litter sampling and testing.



Teena G. Gunter
Deputy General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry

Before me, an authorized agent of the Board, in and for said County and State, on this 18 day of October, 2005, personally appeared Teena G. Gunter, and stated that the facts set forth in this Affidavit are true and correct to the best of her knowledge and belief.



District Judge or Notary Public

OCT. 18. 2005 2:11PM

HALL ESTILL ET AL PC

NO. 6430 P. 19/24

FILED

OCT 18 2005

**AFFIDAVIT IN SUPPORT OF APPLICATION
FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY FOR INSPECTION**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)
)
COUNTY OF DELAWARE)

SS

CV-05-566

I, Teena G. Gunter, being duly sworn upon my oath, do depose and say:

1. I am the Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry (Department) and a duly authorized representative of the State Board of Agriculture for the purpose of carrying out the Oklahoma Agricultural Code (Code). The Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

2. Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry; animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

3. The statements herein are made upon personal knowledge.

4. The poultry facility registered by Kenneth and Franklin Glenn, d/b/a Glenn Farms, is a registered poultry feeding operation pursuant to the Oklahoma Registered Poultry Feeding Operations Act, 2 O.S. § 10-9.1 et seq.

5. On April 25, 2005, the Department met with Kenneth and Franklin Glenn, d/b/a Glenn Farms, and notified them of the Department's intent to take soil and litter samples at the poultry feeding operation. Kenneth and Franklin Glenn did not allow the soil or litter sampling to take place.

6. On May 3, 2005, Dan Parrish, Director of the Agricultural Environmental Management Services Division, and Secretary of Agriculture Terry L. Peach met with Kenneth Glenn and other poultry producers in Kansas, Oklahoma to discuss the proposed soil and litter sampling events and to answer questions. Michael Graves also attended the meeting as the attorney for Kenneth Glenn and the other poultry producers.

OCT. 18. 2005 2:12PM

HALL ESTILL ET AL PC

NO. 6430 P. 20/24

7. On May 18, 2005, a written response to the growers' questions raised at the May 3, 2005 meeting was provided to Kenneth and Franklin Glenn, the other poultry producers, and Michael Graves as their attorney. In addition, the response notified them that the Department would begin contacting them the following week to schedule the soil and litter sampling.

8. On May 23, 2005, Michael Graves notified the Department that unless additional concessions were made, the poultry producers would not allow the soil and litter sampling to occur.

9. On May 27, 2005, Secretary Terry L. Peach notified Michael Graves that no additional concessions would be made regarding the soil and litter sampling and to please advise if his clients intended to refuse access to the Department.

10. On June 3, 2005, D. Kenyon Williams, Jr., on behalf of Michael Graves notified the Department that the poultry growers do refuse access to the Department. I confirmed the refusal in a June 22, 2005 in a telephone conversation with Michael Graves.

11. On June 29, 2005, Michael Graves sent a letter to Terry L. Peach renewing the poultry growers' objection to the sampling project as earlier outlined and requesting that the Department not seek warrants to enforce its right of access.

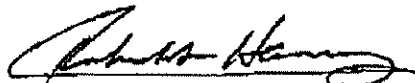
12. The agents of the State Board of Agriculture may require the assistance of and be accompanied by one or more deputies of the Delaware County Sheriff's office or investigators of the Oklahoma Department of Agriculture, Food, and Forestry.

13. A return will be made to the Court at the completion of the soil and litter sampling and testing.



Teena G. Gunter
Deputy General Counsel
Oklahoma Department of Agriculture,
Food, and Forestry

Before me, an authorized agent of the Board, in and for said County and State, on this 18 day of October, 2005, personally appeared Teena G. Gunter, and stated that the facts set forth in this Affidavit are true and correct to the best of her knowledge and belief.



District Judge or Notary Public

OCT. 18. 2005 2:12PM

HALL ESTILL ET AL PC

NO. 6430 P. 21/24

FILED**OCT 18 2005**

**APPLICATION FOR STATUTORY ADMINISTRATIVE WARRANT
ALLOWING ENTRY TO PREMISES**

CAROLINE M. WEAVER
DELAWARE CO. COURT CLERK

STATE OF OKLAHOMA)
)
COUNTY OF DELAWARE)

SS

CV-05-566

COMES NOW Teena G. Gunter, Deputy General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry, by and through, David Leavitt, Office of General Counsel, and applies for a statutory administrative warrant to enter certain privately-owned premises in Delaware County, Oklahoma in order to perform soil and litter sampling and testing at the barns and land application sites of a poultry feeding operation known as the Kenneth and Franklin Glenn, d/b/a Glenn Farms, poultry facility. The premises are located in Sections 21 and 22, Township 20 North, Range 25 East of the Indian Meridian, Delaware County. These premises are believed to be in the possession, custody, and control of Kenneth and Franklin Glenn, d/b/a Glenn Farms, 56492 S. 700 Road, Colcord, Oklahoma 74338.

Authority for entry to the premises and this statutory administrative warrant is pursuant to 2 O.S. 2001 § 2-14, § 2-4(A)(7) and (16), § 10-9.10, and § 10-9.20. As detailed below, access to the premises is a part of the normal regulatory duties of the Department as a part of implementing the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

The Oklahoma Agricultural Code at 2 O.S. 2001 § 2-14 provides the Department with general authority for right of entry upon any premises and the authority to collect and submit samples "for the purpose of implementing the Oklahoma Agricultural Code and rules promulgated pursuant thereto." The Code also authorizes the State Board of Agriculture through its agents to apply to the District Court for an administrative warrant if a person refuses to permit the agent to enter the premises.

Under the Oklahoma Constitution Art. 6, § 31 and 2 O.S. 2001 § 2-4 (7) the State Board of Agriculture has "jurisdiction over all matters affecting animal industry, animal health, and animal quarantine." 2 O.S. 2001 § 10-9.10 provides authority to enter the premises of a poultry feeding operation to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act. Registration of the poultry feeding operation is deemed to constitute consent for entry upon the premises by the State Board of Agriculture or its agents. In addition, 2 O.S. 2001 § 10-9.20 of the Oklahoma Poultry Waste Applicators Certification Act provides authority to the Department to take samples of poultry waste and soil at application sites, whether or not they are associated with a poultry feeding operation, in order to determine their concentration.

The sampling will begin as soon as practicable after issuance of the requested warrant and order for entry and will be completed with reasonable promptness. The sampling is expected to take approximately twenty-four (24) hours, more or less, and may take up to three (3) days. Photographs of the sampling event may be taken. The sampling will be conducted by one or more duly authorized agents of the Oklahoma Department of Agriculture, Food, and Forestry.

OCT. 18. 2005 2:12PM

HALL ESTILL ET AL PC

NO. 6430 P. 22/24

Appropriate biosecurity protocols will be followed during the sampling event. If necessary, one or more deputies from the Delaware County Sheriff's Department or Agricultural Investigators from the Department may accompany them.

Return of service of the warrant will be made as soon as practicable after completion of the inspection.

An affidavit in support of this application is attached hereto as Attachment A and is incorporated herein.

Wherefore, the undersigned respectfully requests that a statutory administrative warrant be issued authorizing entry, sampling, and photographing of the property and premises described above for the purposes specified herein.

Respectfully submitted,



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